

SERVED: June 24, 1999

NTSB Order No. EA-4777

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)
on the 24th day of June, 1999

_____)	
JANE F. GARVEY,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-15323
v.)	
)	
MICHAEL J. GEARIN,)	
)	
Respondent.)	
_____)	

ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal filed by the respondent in this proceeding because it was not perfected by the filing of a timely appeal brief, as required by Section 821.48(a) of the Board's Rules of Practice (49 CFR Part 821).¹

¹Section 821.48(a) provides as follows:

§ 821.48(a) **Briefs and oral argument.**

(a) Appeal briefs. Each appeal must be perfected within 50 days after an oral initial decision has been rendered, or 30 days after service of a written initial decision, by filing with the Board and serving on the other party a brief in support of the appeal. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief.

We will grant the motion, to which respondent filed no response.

The record establishes that respondent filed a timely notice of appeal from the oral initial decision the law judge rendered on February 23, 1999,² but he did not file an appeal brief within 50 days after that date; that is, by April 14, and he has not to date filed an appeal brief.³

In the absence of good cause for respondent's failure to perfect his appeal by filing a timely appeal brief, dismissal of his appeal is required by Board precedent. See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted; and
2. The respondent's appeal is dismissed.

Daniel D. Campbell
General Counsel

²The law judge affirmed, in part, an order of the Administrator suspending any pilot certificate held by respondent, including Airline Transport Pilot Certificate No. 021447191, for his alleged violations of sections 91.119(a) and (d) and 91.13(a) of the Federal Aviation Regulations, 14 CFR Part 91. The law judge dismissed the section 91.119(d) charge and, for that reason, reduced the suspension sought by the Administrator from 120 to 90 days.

³The record reflects that respondent had previously been furnished a copy of the Board's Rules of Practice.